

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GARY C. and GALE B. WARREN,
and TOLL BROS., INC.,

Plaintiffs,

v.

NEW CASTLE COUNTY,

Defendant.

C.A. No. 07-725 LPS

**NEW CASTLE COUNTY'S MOTION TO
DISMISS PLAINTIFFS' AMENDED COMPLAINT**

Defendant New Castle County ("County") hereby moves to dismiss the amended complaint filed by Gary C. Warren, Gail B. Warren, and Toll Bros., Inc. pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 12(b)(7). The grounds for the motion are more fully set forth in the County's brief in support of the motion, filed herewith.

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Dated: January 4, 2008

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**(PROPOSED) ORDER ON NEW CASTLE COUNTY'S
MOTION TO DISMISS AMENDED COMPLAINT**

AND NOW, TO WIT, on this _____, day of _____, 2008, having heard and considered defendant New Castle County's ("County") motion to dismiss Plaintiffs' amended complaint and supporting arguments, and plaintiffs Gary C. Warren, Gail B. Warren, and Toll Bros. Inc.'s (collectively "Toll") reply thereto, the County's motion is GRANTED in its entirety and Toll's amended complaint is hereby DISMISSED WITH PREJUDICE.

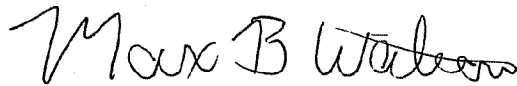
IT IS SO ORDERED.

The Honorable Leonard P. Stark U.S.M.J.

CERTIFICATE OF SERVICE

I, Max B. Walton, hereby certify that on the 31st day of January, 2008, a copy of New Castle County's Motion to Dismiss the Amended Complaint was served by CM/ECF to counsel of record as follows:

Jeffrey M. Weiner (Bar No. 403)
Law Offices of Jeffrey M. Weiner
1332 King Street
Wilmington, DE 19801

A handwritten signature in cursive script that reads "Max B. Walton". The signature is written in black ink and is positioned above a horizontal line.

Max B. Walton (Bar No. 3876)